

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

JESSE TYRONE BUCHANAN,)	
)	
Movant,)	
vs.)	No. 1:10-cv-0314-WTL-TAB
)	
UNITED STATES OF AMERICA)	

Entry Discussing Request to Proceed on Appeal *In Forma Pauperis*

The movant seeks leave to proceed on appeal without prepayment of the appellate fees of \$455.00. An appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915; see *Coppedge v. United States*, 369 U.S. 438 (1962). "Good faith" within the meaning of § 1915 must be judged by an objective, not a subjective, standard. See *id.* There is no objectively reasonable argument the petitioner could present to argue that the disposition of this action was erroneous. (Rule 12(b)(3) of the *Federal Rules of Criminal Procedure* provides that a motion to dismiss an indictment based on an alleged lack of jurisdiction must be brought before trial and that a claim that an indictment does not invoke the court's jurisdiction may be brought while a case is pending.) In pursuing an appeal, therefore, the movant "is acting in bad faith . . . [because] to sue in bad faith means merely to sue on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Accordingly, his appeal is not taken in good faith, and for this reason his request for leave to proceed on appeal *in forma pauperis* (dkt 11) is **denied**.

IT IS SO ORDERED.

Date: 05/05/2010



Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Distribution:

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